



Title VI and Non-Discrimination Plan

November, 2011

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TITLE VI AND NON-DISCRIMINATION POLICY STATEMENT

The City of Fargo (City) is committed to compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all related regulations and statutes. The City assures that no person or groups(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap, and income status¹ be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the City, regardless of whether those programs and activities are federally funded or not.

The City also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on the basis of religion, sexual orientation, minority status and low-income populations. In addition, the City will provide meaningful access to services for persons with Limited English Proficiency.

In the event the City distributes federal-aid funds to a subrecipient, the City will include Title VI language in all written agreements and will monitor for compliance.

The City's Title VI Coordinator is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21. The City's Title VI Coordinator is:

Nate Bailly
Planner, Department of Planning and Development
200 N 3rd Street
Fargo, ND 58102
701-476-6751/nbailly@cityoffargo.com

Dennis R. Walaker, Mayor

City of Fargo

Signature

Date

¹ Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

TITLE VI ASSURANCES

The City of Fargo in the State of North Dakota (hereinafter referred to as the Recipient) HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the U. S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives to the end that, in accordance with the Act, regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age, disability/handicap, and income status² be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance through the North Dakota Department of Transportation, including the U.S. Department of Transportation and the Federal Highway Administration; and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal-aid Highway Program

1. That the Recipient agrees that each “program” and each “facility,” as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or materials subject to the regulations and made in connection with the Federal-aid Highway Program and, in adapted form, in all proposals for negotiated agreements:

The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any

² Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and income status in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-aid Highway Program; and (b) for the construction or use of, or access to space on, over, or under, real property acquired or improved under the Federal-aid Highway Program.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein, or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he or she delegates specific authority, to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants

of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations, and this assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal-aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants in the Federal-aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

Dennis R. Walaker, Mayor

City of Fargo

Signature	Date
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Attachments: Appendices A, B, and C

APPENDIX A OF THE TITLE VI ASSURANCES

The City of Fargo will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance:

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor), agrees as follows:

1. **Compliance with Regulations:** The Contractor shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the City of Fargo or the North Dakota Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the City of Fargo, or the North Dakota Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the City of Fargo and the North Dakota Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The Contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract or procurement as the City of Fargo or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Contractor may request the City of Fargo enter into such litigation to protect the interests of the City of Fargo; and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

*** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.*

APPENDIX B OF THE TITLE VI ASSURANCES

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures, or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the City of Fargo, as authorized by law and upon the condition that the City of Fargo will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation, and also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation (hereinafter referred to as the Regulations), pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim, and convey unto the City of Fargo all the right, title, and interest of the U.S. Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the City of Fargo and its successors forever, subject, however, to the covenant, conditions, restrictions, and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, and shall be binding on the City of Fargo, its successors, and assigns.

The City of Fargo, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree, as a covenant running with the land, for itself, its successor, and assigns that (1) no person shall, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the City of Fargo shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-

assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land; and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assignees as such interest existed prior to this instruction.*

** Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.*

*** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.*

APPENDIX C OF THE TITLE VI ASSURANCES

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the City of Fargo, pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate), for him or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases, add “as a covenant running with the land”] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended, or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, the City of Fargo shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above nondiscrimination covenants, the City of Fargo shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the City of Fargo and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the City of Fargo, pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate), for him or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases, add “as a covenant running with the land”] that (1) no person, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that

in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, the City of Fargo shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds.]*

That in the event of breach of any of the above nondiscrimination covenants, the City of Fargo shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the City of Fargo and its assigns.

** Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.*

*** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.*

TITLE VI COORDINATOR RESPONSIBILITIES

The Title VI Coordinator is charged with the responsibility for implementing, monitoring, and ensuring the City's compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received by the City of Fargo.
2. Collect Statistical data (race, color, sex, age, disability, or national origin, religion, sexual orientation) of participants in and beneficiaries of state highway programs, e.g. affected citizens and impacted communities.
3. Conduct annual Title VI reviews to determine the effectiveness of program activities at all levels.
4. Review City program directives. Where applicable, include Title VI language and related requirements.
5. Conduct and/or arrange training programs on Title VI and other related statutes for City employees and recipients of federal highway funds. Include a statement about the City of Fargo's Title VI Plan in the Employee Newsletter. Advise all employees of the availability of the Title VI Plan on the City of Fargo's Intranet. Post the Title VI Plan on the City of Fargo Intranet. Post the Title VI Plan on employee bulletin boards at City of Fargo worksites. Inform all employees that a copy of the Title VI Plan is available upon request. Assure that all new employees are informed of the Title VI Plan during orientation.
6. Prepare a yearly report of Title VI accomplishments and goals, as required.
7. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English. Post the Title VI Plan on the City of Fargo web page and other physical locations that are accessible to the general public.
8. Identify and take corrective action to help eliminate discrimination.
9. Establish procedures to promptly resolve identified Title VI deficiencies.

LIMITED ENGLISH PROFICIENCY PLAN

TITLE VI COORDINATOR

Nate Bailly, Planner

Fargo Department of Planning and Development

701-241-1474

INTRODUCTION

This *Limited English Proficiency Plan* has been prepared to address the City of Fargo's (City) responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled ***Improving Access to Services for Persons with Limited English Proficiency***, indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including all City departments receiving federal grant funds.

Plan Summary

The City has developed this ***Limited English Proficiency Plan*** to help identify reasonable steps for providing language assistance to persons with limited English proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

In order to prepare this plan, the City used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons in the service area who may be served by the City.
2. The frequency with which LEP persons come in contact with City services.
3. The nature and importance of services provided by the City to the LEP population.
4. The interpretation services available to the City and overall cost to provide LEP assistance. A summary of the results of the four-factor analysis is in the following section.

MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

The number or proportion of LEP persons in the service area who may be served or are likely to require City services.

The City staff reviewed the 2008-2010 American Community Survey Data from the U.S. Census and determined that 6,420 persons in Fargo's [7% of the population] speak a language other than English. Of those 6,420 persons 2,343 [2% of the population] have limited English proficiency; that is, they speak English "less than very well."³ Since this data is based on limited surveys, there exists a significant margin of error. It is believed that, given Fargo's role as a refugee settlement community, the numbers of persons speaking English "less than very well" are often higher than reported by the Census.

The frequency with which LEP persons come in contact with City services.

City staff reviewed the frequency with which their office staff and maintenance staff have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, the City has had a limited number of requests for interpreters and a few requests for translated program documents. The City office staff have had (and continue to have) periodic contact with LEP persons where the services of an interpreter are required.

The nature and importance of services provided by the City to the LEP population.

As populations in the FM area became increasingly diverse, the need for foreign language interpreters - men and women who interpret for people who speak little or no English - has risen dramatically. To add further complexity to the issue, there are more than 40 languages spoken in the metropolitan area. The most frequent language needs are Bosnian, Arabic, Vietnamese, Spanish, French and Somali. People with English language barriers are found in both immigrant and refugee populations. Currently, the City provides information translated into various languages upon request, and will continue to strive to provide needed information for all English Language Learners as needed.

City staff members are most likely to encounter LEP individuals through office visits, phone conversations, notifications from maintenance staff of impacts on city/service area services and attendance at meetings.

The resources available to the City, and overall costs to provide LEP assistance.

The Metro Interpreter Resource Center (MIRC) will assist the City of Fargo in securing translators in other languages for individuals to access important programs and information, understand rules, and

³ US Census Bureau, 2008-2010 American Community Survey, Table B06007

participate in proceedings or programs, and meetings. If the City of Fargo determines that LEP services are to be provided to enable access to City services and/or programs, it will be the responsibility of the City of Fargo to pay for translation services and not the person requesting such service. It is impossible to provide brochures or interpreters for the City in every language needed on a regular basis, but every effort will be made to meet language translation needs.

A MIRC Coordinator was hired in January 2005, and this person is located within Cultural Diversity Resources. General oversight and direction is provided by an Advisory Committee that consists of representatives from all funding agencies. Day-to-day supervision is handled by an Executive Committee of the larger Advisory Committee. The coordinator has a strong working relationship with local providers of interpreter services.

LANGUAGE ASSISTANCE

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to City services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

How the City staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- All City staff will be provided with “I Speak” cards to assist in identifying the language interpretation needed if the occasion arises.
- All City staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.
- When the City sponsors an informational meeting or event, a staff person may greet participants as they arrive. By informally engaging participants in conversation it is possible to gauge each attendee’s ability to speak and understand English. Although translation may not be able to be provided at the event it will help identify the need for future events.

Language Assistance Measures

Although there is a low percentage of LEP individuals in the City service area, that is, persons who speak English “less than very well”, it will strive to offer the following measures:

1. The City staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources will be available to accommodate LEP persons:

- a. Paid interpreters for many world languages are available through the Metro Interpreter Resource Center and will be provided within a reasonable time period.
- b. Language interpretation can also be accessed through a telephone interpretation service when necessary.

STAFF TRAINING

The following training will be provided to all staff:

- Information on the Title VI Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of the “I Speak” cards.
- Documentation of language assistance requests.
- How to handle a potential Title VI/LEP complaint.

All contractors or subcontractors performing work for the City will be required to follow the Title VI/LEP guidelines.

TRANSLATION OF DOCUMENTS

The City weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, at this time it is an unnecessary burden to have any documents translated.

Due to the very small local LEP population, the City does not have a formal outreach procedure in place, as of 2010. Translation resources have been identified and are limited in this region. However, when and if the need arises for LEP outreach, the City will consider the following options:

- When staff prepares a document, or schedules a meeting, for which the target audience is expected to include LEP individuals, then documents, meeting notices, flyers, and agendas will be printed in an alternative language based on the known LEP population.

MONITORING

Monitoring and Updating the LEP Plan - The City will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when it is clear that higher concentrations of LEP individuals are present in the City service area. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.

- Determine whether the City financial resources are sufficient to fund language assistance resources needed.
- Determine whether the City fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.

DISSEMINATION OF THE CITY OF FARGO LEP PLAN

- Post signs in City's service area notifying LEP persons of the LEP Plan and how to access language services.
- State on agendas and public notices in the language that LEP persons would understand that documents are available in that language upon request at the City.
- Post on the City's website the LEP Plan and how to access language services.

SIGN-IN SHEET

North Dakota Department of Transportation, Civil Rights Division
SFN 59531 (Rev. 04-2011)

- ☐ Subrecipient
☐ NDDOT

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Name of Subrecipient or NDDOT Division/District

Meeting Location	Meeting Type	Meeting Date
Project Number	PCN	
Project Description		

Our Title VI and Nondiscrimination Program requires that statistical data be gathered on participants and beneficiaries of the agency's federal-aid highway programs and activities. Information is collected on race, color, national origin and sex of the attendees to this public meeting to ensure the inclusion of all segments of the population affected by the proposed project.

We wish to clarify that this information gathering process is completely voluntary and that you are not required to disclose any information requested in order to participate in this meeting. This form is a public document and will be retained by the subrecipient or NDDOT Division/District identified above.

For further information regarding this process, please contact the Title VI Coordinator at:

Title VI Coordinator Name	Title VI Coordinator Phone Number	Title VI Coordinator Email
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Name (Please print)			Title/Representing			Email		
Address			Please check the appropriate boxes below:					
City	State	Zip code	<input type="checkbox"/> Male	<input type="checkbox"/> Disabled <input type="checkbox"/> Yes	<input type="checkbox"/> American Indian/Alaskan Native			
			<input type="checkbox"/> Female	<input type="checkbox"/> No	<input type="checkbox"/> Native Hawaiian or other Pacific Islander	<input type="checkbox"/> Asian	<input type="checkbox"/> Hispanic	<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Other

Name (Please print)			Title/Representing			Email		
Address			Please check the appropriate boxes below:					
City	State	Zip code	<input type="checkbox"/> Male	<input type="checkbox"/> Disabled <input type="checkbox"/> Yes	<input type="checkbox"/> American Indian/Alaskan Native			
			<input type="checkbox"/> Female	<input type="checkbox"/> No	<input type="checkbox"/> Native Hawaiian or other Pacific Islander	<input type="checkbox"/> Asian	<input type="checkbox"/> Hispanic	<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Other

Name (Please print)			Title/Representing			Email		
Address			Please check the appropriate boxes below:					
City	State	Zip code	<input type="checkbox"/> Male	<input type="checkbox"/> Disabled <input type="checkbox"/> Yes	<input type="checkbox"/> American Indian/Alaskan Native			
			<input type="checkbox"/> Female	<input type="checkbox"/> No	<input type="checkbox"/> Native Hawaiian or other Pacific Islander	<input type="checkbox"/> Asian	<input type="checkbox"/> Hispanic	<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Other

Name (Please print)			Title/Representing			Email		
Address			Please check the appropriate boxes below:					
City	State	Zip code	<input type="checkbox"/> Male	<input type="checkbox"/> Disabled <input type="checkbox"/> Yes	<input type="checkbox"/> American Indian/Alaskan Native			
			<input type="checkbox"/> Female	<input type="checkbox"/> No	<input type="checkbox"/> Native Hawaiian or other Pacific Islander	<input type="checkbox"/> Asian	<input type="checkbox"/> Hispanic	<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Other

TITLE VI COMPLAINT PROCEDURE

SCOPE OF TITLE VI COMPLAINTS

The scope of Title VI covers all external City of Fargo activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with the City of Fargo for the furnishing of goods and/or services. Examples include advertising for bid proposals; prequalification or qualification; bid proposals and awards; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.

Complaints can originate as a result of project impacts on individuals or groups. For example, social and economic, traffic, noise, air quality, access, accidents, and failure to maintain facilities.

FORMAL TITLE VI COMPLAINT PROCEDURE

The City of Fargo Title VI Policy assures that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap and income status⁴ be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the City of Fargo, its recipients, subrecipients, and contractors.

The City of Fargo uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by it. These procedures include but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with the City of Fargo. Complaints should be directed to the Title VI Coordinator. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of the City of Fargo's programs for it to be considered and processed as an allegation of a discriminatory practice.

⁴ Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. The City of Fargo's Title VI Complaint Form **must** be used.
3. The complaint may also be filed with the Secretary, U. S. Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, DC 20590. The complaint **must** be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U. S. Department of Transportation.
4. Immediately, upon receipt of a Title VI complaint, the City of Fargo determines a course of action. Possible courses of action include:
 - a. Title VI complaints filed against the City of Fargo are referred to the North Dakota Department of Transportation (NDDOT) for processing. NDDOT notifies the Federal Highway Administration (FHWA) Division Office of the complaint.
 - b. Title VI complaints filed against City of Fargo recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by the City of Fargo in accordance with FHWA approved complaint procedures, as required under 23 Code of Federal Regulations Part 200. NDDOT is available to provide assistance.
 - (1) A copy of the complaint, together with a copy of the City of Fargo's report of the investigation and recommendations, are forwarded to the FHWA Division Office, 1471 Interstate Loop, Bismarck, ND 58503, within sixty (60) days of the date the complaint was received by the City of Fargo.
 - (2) A copy of the complaint, together with a copy of the City of Fargo's report of the investigation and recommendations, are provided to NDDOT, Local Government Division, 608 East Boulevard, Bismarck, ND 58505-0700, for informational purposes only.
 - (3) The FHWA Headquarters Office of Civil Rights makes the final agency decision.
5. The City of Fargo reviews and determines the appropriate action regarding every complaint. The City of Fargo will recommend to the FHWA Division Office, with a copy to NDDOT, not to proceed with or continue a complaint investigation if:
 - c. The complaint is, on its face, without merit.

- d. The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.
 - e. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.
6. If an investigation is to be initiated, the City of Fargo determines the method of investigation and who will conduct the investigation.
7. The entire investigation process, including the submission of the final report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by the City of Fargo.
8. The City of Fargo acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:
- a. The basis for the complaint.
 - b. A brief statement of the allegation(s) over which the City of Fargo has jurisdiction.
 - c. A brief statement of the City of Fargo jurisdiction over the recipient to investigate the complaint; and
 - d. An indication of when the parties will be contacted.
 - e. Depending on the nature of the complaint, the complaint will be referred to the following for final decision:
 - (1) Federal Highway Administration (FHWA)
 - (2) U. S. Department of Justice (USDOJ)
9. The City of Fargo also notifies the FHWA Division Office, with a copy to NDDOT, within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FHWA:
- a. Name, address, and phone number of the complainant.
 - b. Name(s) and address(es) of persons alleged to have been involved in the act.
 - c. Basis of alleged discrimination (i.e., race, color, national origin, sex, age, disability/handicap, income status, religion, sexual orientation).

- d. Date of alleged discriminatory act(s).
 - e. Date complaint was received by the City of Fargo.
 - f. A brief statement concerning the nature of the complaint.
 - g. Other agencies (federal, state, or local) with which the complaint has been filed.
 - h. An explanation of the actions the City of Fargo proposes to take to resolve the issues raised in the complaint.
10. The investigation consists of an in-depth, personal interview with the complainant(s). Information gathered in this interview includes but is not limited to: identification of each complainant by race, color, national origin, sex, age, disability/handicap, or income status⁵, name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigator(s) feels is relevant to the complaint. The interview(s) is recorded, either on audio tape or by an investigator taking notes. The investigator(s) arranges for the complainant to read, make necessary changes to, and sign the interview transcript or interview notes.
11. Following the interviews, the investigator(s) develops a report of the investigation and recommendations based on the facts. The report contains the investigator's(s') findings, conclusions concerning each issue raised in the complaint, and recommendations for corrective action. The report is the last document prepared by the investigator(s). Any other actions taken as a result of the investigator's(s') findings and conclusions are the responsibility of City of Fargo management.
12. The complainant receives a letter from the City of Fargo detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the final determination is made by the FHWA Headquarters Office of Civil Rights.
13. The City of Fargo forwards the report of the investigation and recommendations to the FHWA Division Office, with a copy to NDDOT. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, and any other pertinent information.
14. The FHWA Headquarters Office of Civil Rights makes the final agency decision.

⁵ Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

INFORMAL TITLE VI COMPLAINT PROCEDURE

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint. Informal means may be followed, for example, if the complaint is received by phone or in person and the complainant chooses not to pursue the formal written complaint process.
2. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.
3. The City of Fargo periodically informs NDDOT of the status of all informal complaints.
4. When a complaint has been directly filed with another federal or state agency, The City of Fargo is to be informed by the agency where the complaint has been filed and is to take whatever action is needed to resolve the complaint.

North Dakota Department of Transportation, Civil Rights Division
SFN 51795 (Rev. 05-2011)

☐ Subrecipient For instructions see page 2.
☐ NDDOT For instructions see page 3.

Name		Telephone
Mailing Address		Email Address
City	State	Zip Code

☐ Race ☐ Color ☐ National Origin

☐ Sex ☐ Age ☐ Disability/Handicap ☐ Income Status

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Complainant's Signature _____ Date _____

SUBRECIPIENT INSTRUCTIONS

General

1. Under Title VI of the Civil Rights Act of 1964 and the related statutes and regulations, no person or group(s) of persons shall, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status*, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the **(CITY OF FARGO)**. Any person or group(s) of persons who feel they have been discriminated against may file a complaint.
2. Instructions provided within this form are not meant to be all inclusive. Complainants are responsible for all procedural requirements.
3. Complainants **must** include all required information and **must** meet all timeframes as defined in the **(CITY OF FARGO)** Title VI Complaint Procedure.
4. Legible copies of all available pertinent documentation should be attached to this form.
5. All inquiries should be directed to **(Nate Bailly, City of Fargo, 200 3rd Street North, Fargo, ND, 58102, 701-241-1474, 701-241-8258)**.

Part I

Complete all information in this section.

Part II

Check all boxes that apply indicating the basis for the complaint. The discrimination **must** be based on at least one of the listed categories.

Part III

State the specific complaint in a manner that clearly identifies the issues upon which the complaint is based.

Part IV

State the minimum remedy acceptable for resolution of this complaint.

Part V

Sign and date this section to verify the information contained in Parts I through IV.

Complaints Filed with U.S. Department of Transportation

Discrimination complaints based on race, color, national origin, sex, age, disability/handicap, or income status* may be filed with the U.S. Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE (S-33), Washington, D.C. 20590. The complaint **must** be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of the U.S. Department of Transportation.

*Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

TITLE VI COMPLAINT LOG

North Dakota Department of Transportation, Civil Right Division
SFN 59892 (04-2011)

Reporting Year

Name						
Address					State	Zip Code
Status of Complainant:						
Race	Color	National Origin	Sex	Age	Disability/Handicap	Income Status
Nature of Complaint (If you need more space please attach additional sheets)						
Recipient (Processor of Complaint)						
Date Filed		Date Investigation Completed		Date of Disposition		
Disposition (If you need more space please attach additional sheets)						

Name						
Address					State	Zip Code
Status of Complainant:						
Race	Color	National Origin	Sex	Age	Disability/Handicap	Income Status
Nature of Complaint (If you need more space please attach additional sheets)						
Recipient (Processor of Complaint)						
Date Filed		Date Investigation Completed		Date of Disposition		
Disposition (If you need more space please attach additional sheets)						